Supreme Court, U. S.
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No. 74-1585

In the

Supreme Court of the United States

OCTOBER TERM, 1974

47TH AND STATE CURRENCY EXCHANGE, INC.,
an Illinois corporation,

Plaintiff-Appellant,

vs.

B. COLEMAN CORPORATION,
an Illinois corporation,

Defendant-Appellee.

JURISDICTIONAL STATEMENT PURSUANT TO RULE 15 OF THE UNITED STATES SUPREME COURT

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INDEX

PAGE

Grounds on Which Jurisdiction of Supreme Court Is Invoked 2

Questions Presented on Appeal 2

Statement of the Case 3

Conclusion 14

CITATIONS

CASES

Organization for a Better Austin v. O'Keefe, 402 U.S. 415 4

Paddington v. Foremost Sales, Inc., 13 Ill. App. 3rd 175 8

Bohn Aluminum & Brass v. Barker, 3 Ill. App. 3rd 600 (1972) 8

Buckingham Corp. v. Vesolowski, 17 Ill. App. 3rd 61 .. 10

Hartman v. Scott, (1973) 488 Fed. 2nd 1215 12

Richard Guy Steffel v. John R. Thompson, 39 L. ed. 2nd 505 13

Lloyd Morey v. George Daud, 350 U.S. 457, 1 L. ed. 2nd 1485 12

STATUTORY PROVISIONS

28 U.S.C. 1257 .....1, 2, 3, 4

Ill. Rev. Stat., 1971, Ch. 69, Secs. 3 and 3-1 ..... 1, 2

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No.

47TH AND STATE CURRENCY EXCHANGE, INC.,
an Illinois corporation,

Plaintiff-Appellant,

vs.

B. COLEMAN CORPORATION,
an Illinois corporation,

Defendant-Appellee.

JURISDICTIONAL STATEMENT PURSUANT TO RULE 15 OF THE UNITED STATES SUPREME COURT

To The Justices Of The Supreme Court Of The United States:

B. COLEMAN CORPORATION, an Illinois corporation, Appellant, pursuant to 28 U.S.C., Sec. 1257, has appealed from the Order entered on the 29th day of January, 1975, vacating the Stay Order of the Appellate Court for the First District, and from the Order entered May 14, 1975 denying Appellant's Motion to Recall the Mandate issued April 4, 1975, and to correct the language of the mandate to conform to the Order of January 29, 1975, pursuant to Ill. Rev. Stat. 1971, Ch. 69, Sec. 3 and 3-1 establishing the duration of a temporary restraining order.

GROUNDS ON WHICH JURISDICTION OF SUPREME COURT IS INVOKED.

(a) The Decision of the Illinois Supreme Court in this case has not been officially reported. The Order entered on January 29, 1975 is attached hereto in lieu thereof. See Appellant's Exhibit A attached hereto.

(b) The basis of this Appeal to the Supreme Court of the United States is pursuant to 28 U.S.C., Sec. 1257. The Supreme Court of Illinois, contrary to Ill. Rev. Stat. 1971, Ch. 69 sec. 3 and 3-1, issued its mandate that the temporary restraining order that was issued on the 29th day of October, 1974 was in full force and effect.

QUESTIONS PRESENTED ON APPEAL

The validity of the State Statute in question (the Injunction Act) is Ch. 69, Sec. 3-1.

"No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before notice can be served and a hearing had thereon. Every temporary restraining order granted without notice shall be indorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; *and shall expire by its terms within such time after entry, not to exceed 10 days,* as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period."

28 U.S.C., Sec. 1257 states:

"State courts—Appeal—Certiorari.—Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States. (June 25, 1948, c. 646, § 62 Stat. 929.)"

STATEMENT OF THE CASE.

(i) The proceeding was originally instituted by the 47TH AND STATE CURRENCY EXCHANGE, INC., a licensee under Ch. 16 ½, Sec. 31, which alleged that Appellant was conducting a currency exchange without a license.

That when the application was made for the issuance of an injunction, Appellee failed to disclose to the court that Appellant was an agent of AMERICAN EXPRESS and an agent of TRAVELERS EXPRESS. Based on the false representations, the court entered a temporary injunction order without bond, and without notice.

When Appellant was apprised of the issuance of the temporary injunction order, it filed a petition to vacate the stay order, which was granted, and a temporary restraining order was issued without an evidentiary hearing, copy of which is attached hereto.

Appellant then obtained a stay order from the Appellate Court of Illinois. Subsequently, Appellee moved for an emergency hearing before the Supreme Court, which was granted.

The order of the Supreme Court, which is attached, remands the case to be heard on the merits and finds that the Appellate Court erred in vacating the temporary stay order of the Trial Court.

In the oral argument that took place before the Supreme Court, the justices questioned the advisibility of issuing the stay order by the Appellate Court since it was a temporary restraining order which automatically became moot, terminated or died at the end of the ten day period. (This is similar to the Federal Rules of Civil Procedure.)

The right of the Supreme Court under 28 U.S.C., sec. 1257 to determine the validity of an Illinois temporary injunction where it applied a more rigorous standard in issuing and sustaining the temporary restraining order is upheld in the case of *Organization for a Better Austin* v. *O'Keefe*, 402 U.S. 415, 29 L. Ed. 2nd.

The temporary restraining order in the case at bar rests on a disputed question of fact, namely, does the mere cashing of a check place Appellant in the category of a currency exchange.

Any extension of a temporary restraining order can only be granted by a specific order of Court. Other than

that, the restraining order ceases or dies after the tenth day of its issuance. There is no exception to that provision of the Ill. Rev. Stat. that automatically extends the time of a temporary restraining order beyond the ten day period. That to permit a temporary restraining order to remain in full force and effect beyond the ten day period is, in this instance, a violation of Appellant's rights under the 1st and 14th Amendments to the Constitution of the United States.

That the language of the mandate places Appellant and its officers in jeopardy of a contempt citation of conducting the business for which it was specifically licensed by the Director of Financial Institutions of the State of Illinois with a specific license to sell traveler's checks of American Express and money orders of Travelers Express and to perform all acts incidental thereto. The temporary restraining order prohibits Appellant from cashing a check in connection with the sale of a money order. Copy of the Temporary Restraining Order issued the 29th day of October, 1974 is attached as Appellant's Exhibit B.

The proceeding was originally instituted by the 47TH AND STATE CURRENCY EXCHANGE, INC., a licensee under Ch. 16-½, Sec. 31, which alleged that Appellant was conducting a currency exchange without a license.

That when the application was made for the issuance of an injunction, Appellee failed to disclose to the Court that Appellant was an agent of American Express and an agent of Travelers Express. Based on those false representations, the Court entered a temporary injunction order without bond, and without notice.

When Appellant was apprised of the issuance of the temporary injunction order, it filed a petition to vacate

the temporary injunction order, which was granted, and a temporary restraining order was issued. (See Exhibit B).

Appellant then obtained a stay order from the Appellate Court of Illinois. Subsequently, Appellee moved for an emergency hearing before the Supreme Court of Illinois, which was granted.

The order of the Supreme Court which is attached, remands the case to be heard on the merits, and finds that the Appellate Court erred in vacating the temporary restraining order of the trial Court.

That order of the Supreme Court of Illinois is erroneous since it is a well established law in Illinois that "*a temporary restraining order can not decide controverted facts or merits of a case.*"

The temporary restraining order that was granted by the trial Court was issued without an evidentiary hearing being held.

When oral argument took place before the Supreme Court of Illinois, the Justices questioned the advisibility of the Appellate Court issuing the stay order, since it was a temporary restraining order which automatically ceased, became moot or died at the end of the ten-day period.

The entire controversy centers around the interpretation of the Currency Exchange Act, Ch. 16-½, Sec. 31, Ill. Rev. Stat., which controls the "issuance of exchange" at one location, and Ch. 16-½, sec. 301 (Sale of Exchange Act), which controls the "issuance of exchange" at multi locations.

The Sale of Exchange Act, sec. 301 specifically recites:

> "That the business of selling or issuing such instruments at multiple locations through agents, subagents, or representatives is a business which affects the public interest *and which is not presently subject to regulation, although businesses which sell or issue such instruments at a single location are licensed and regulated*[1] under 'An Act in relation to the regulation of community currency exchanges and the operators and employees thereof, and to make an appropriation therefor' approved June 30, 1943, as amended."

That the Sale of Exchange Act was adopted in 1957, whereas the Currency Exchange Act was adopted in 1943. It is quite obvious that since the Sale of Exchange Act specifically recites *that the sellers of exchange at multi locations, until the adoption of that act, were not controlled,*[1] it can not be implied by any means of the imagination that the Currency Exchange Act was intended to govern the sellers of exchange at multi locations. (Sellers of money orders as agents of American Express, Travelers Express, etc.)

The affirmance of the restraining order by the Supreme Court, contrary to the provisions of the Injunction Act of the State of Illinois, Ch. 69, sec. 3-1, has the effect of forcing Appellant out of business when the question of whether Appellant is operating a currency exchange is a controverted fact, in addition to placing Appellant in the position of being in violation of a restraining order that is being construed as a permanent injunction order, even though that decision is contrary to the established law of Illinois.

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[1] Emphasis ours.

The 1967 revision of the Injunction Act, Ill. Rev. Stat. 1971, Ch. 69, Sec. 3 and 3-1, establishes the duration of a temporary restraining order (ten days). If the trial Court intended to enter a preliminary injunction, it was necessary to hold an evidentiary hearing, but no hearing was held in this case.

This proposition was upheld in the case entitled *Paddington Corp.* v. *Foremost Sales, Inc.*, 13 Ill. App. 3rd 175. The Court said:

> "However, such a temporary restraining order was not entered in the instant case. The terms of the injunction restraining defendants 'until such time as this case can be heard on the merits * * *,' exceeds the proper duration of a temporary restraining order. If the trial court intended to enter a preliminary injunction it was necessary to hold an evidentiary hearing. Since no hearing was held the entry of this type of injunction was error."

In the case of *Bohn Aluminum & Brass Co.* v. *Barker*, 3 Ill.App. 3d 600 (1972) the Court held:

> "A temporary restraining order under par. 3-1 '* * * shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.' This same section also provides: 'In case a temporary restraining order is granted without notice, the motion for a preliminary injuntcion shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtains the temporary restraining order shall proceed with the application

> for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order * * *.' Thus, where there is a temporary restraining order, it is but a preliminary to the hearing on a temporary or preliminary injunction and unless the one who obtains the temporary restraining order proceeds with the application for preliminary injunction, the court shall dissolve the temporary restraining order. The temporary restraining order may likewise be dissolved by the court after hearing on two days notice to the party who obtained it without notice. A clear reading of these provisions indicates that a temporary restraining order without notice is nothing more than a preliminary order of court and it is the temporary or permanent injunction which is appealable under Rule 307. In concluding that we do not deal with an appealable order in this case, we are aided by the following statement in Am.Jur. 2d, Vol. 42, p. 1153: 'While some statutes permit an appeal from an order granting or denying a temporary injunction, a temporary restraining order is to be distinguished from a temporary injunction, and the statute does not furnish the basis for an appeal from an order relating to a temporary restraining order.' Also, in 19 ALR3d, p. 409, the following is stated: 'An order granting or continuing a temporary restraining order is, on its face, interlocutory in nature, since there remains pending a determination of the applicant's right to temporary or permanent injunctive relief, and the majority of cases in which the point has been discussed support or recognize the rule that ordinarily no appeal lies from an order granting, continuing, or refusing to dissolve a temporary restraining order or its equivalent. Such orders, without more, do not satisfy statutes or rules defining finality for the purpose of appeal; and a number of cases have held that a statutory provision or rule permitting an appeal from an interlocutory order relating to a temporary or permanent injunction has no applica-

tion to orders dealing with temporary restraining orders.'"

Appellant's contention is that the restraining order entered by the Honorable Daniel Covelli is moot, and this is further supported by the decision of *Buckingham Corp.* v. *Vesolowski,* 17 Ill. App. 3d, 61.

> "An injunctive order was entered on January 18, 1972, which was effective to January 24th. On that date it was extended to February 3rd; on February 3rd it was extended until February 8th; on February 8th it was extended to February 24th, then it was extended once more to March 10, 1972. On March 9th the Vesolowskis filed an interlocutory appeal from the orders of January 18, January 24, February 3, February 8 and February 24."

The defendants in the *Buckingham* case prayed that the five successive injunctional orders be dissolved and reversed. The points advanced in support thereof were:

1. The trial court erred in not holding an evidentiary hearing before issuing the January 18, 1972, injunction.
2. The order granting the injunction was defective.
3. The petition for the injunction was not properly verified.
4. The consent decree of October 21, 1971, provided that a permanent injunction could issue against the Vesolowskis if they again violated the fair-trade contract, but Buckingham applied for, and received a temporary injunction."

The Opinion of the Court is as follows:

> "One of the cases cited in support of this argument is *Bohn Aluminum & Brass Co.* v. *Barker* (1972), 3 Ill.App.3d 600, 278 N.E.2d 247. Leave to appeal was granted in the *Bohn* case and it was reversed. (55

Ill. 2d 177, 303 N.E. 2d 1 (1973). The Supreme Court held that for the purposes of appeal there is no distinction between a temporary restraining order (Ill. Rev. Stat. 1971 ch. 69, par. 3-1) and a preliminary injunction, and both may be appealed under Rule 307(a), which provides: 'An appeal may be taken to the Appellate Court from an interlocutory order of court (1) granting, modifying, refusing, dissolving or refusing to dissolve or modify an injunction; • • •.' (Ill. Rev. Stat. 1971, ch. 110A, par. 307(a).) Thus it makes no difference if the order in dispute was a temporary restraining order, as the plaintiff argues, or a "temporary" injunction, as the defendant insists. The plaintiff's first contention must be rejected, and its motion to dismiss the appeal, based on the same contention, which was taken with the case, must be denied.

"The plaintiff's second affirmative contention is that the appeal is moot; that there is no justiciable controversy before this court because the order from which the appeal is taken expired by its own terms." "Their relevancy to the question of mootness has now become apparent and the order denying leave to file is vacated. Since the order from which this appeal is taken expired the day after the appeal was filed, the present controversy seems to be moot."

The rights of Appellant have been jeopardized by the language in the mandate that the restraining order is in full force and effect, even though it is contrary to Ill. Rev. Stats., 1971, ch. 69,, par. 3-1. The damages to Defendant-Appellee are compounded in that the language of the mandate is being cited in the case instituted by the Appellant in the U.S. District Court, Northern District of Illinois entitled *B. Coleman Corporation, et al.* v. *Daniel Walker, et al.,* Case No. 75 C 353. That case seeks to determine the constitutionality of the Currency Exchange Act and whether it applies to the issuers of exchange

at multi locations, ch. 16½, Sec. 301, Ill. Rev. Stats. 1971, and said proceeding seeks to restrain Appellee from prosecuting a contempt citation against Defendant-Appellee based on the language in the mandate.

That to permit a temporary restraining order to have the same effect as a preliminary injunction is a misuse of judicial process. This is especially true when the temporary restraining order is being used to impose on a defendant restrictions based on the complaint that is being controverted. That the Supreme Court of the United States has previously held in *Lloyd Marey Auditor of Public Accounts of the State of Illinois, et al.* v. *George W. Daud, et al.*, 350 U.S. 457, 1 L.Ed. 2nd, 1485; *Hageman Farms Corp.* v. *Baldwin,* 293 U.S. 163, 170, that the 14th Amendment does not guaranty competition. The complaint for a preliminary injunction without notice was based on the "bald assertion" that the appellant was conducting a currency exchange. The trial Court quite obviously should have held an evidentiary hearing, but instead issued a temporary restraining order. The Constitutionality of the Currency Exchange Act is challenged and Appellant's right to challenge it is confirmed by the decision of *Hartman* v. *Scott* (1973 C.A. 8, Minn.) 488 Fed. 2d 1215. While Appellant would prefer to eliminate competition, there is no basis for the Supreme Court of Illinois to overthrow, disregard and ignore the Injunction Act of the State of Illinois, Ch. 69, sec. 3 and sec. 3-1, *which establishes the duration of a temporary restraining order.*[1]

If the temporary restraining order is permitted to stand by virtue of the erroneous order of the Supreme Court

[1] Emphasis ours.

of Illinois in utter disregard of Appellant's rights under the 1st and 14th Amendments to the Constitution, the Appellant is forced out of business, and while he may win in the final analysis, its customers will have disappeared and it would be an equivalent of appointing a receiver or bankruptcy. In the interim, Appellee might or might not obtain the customers serviced by the Appellant.

There is a justiciable controversy as decided in the case of *Richard Guy Steffel* v. *John R. Thompson, et al.*, 39 L.E.D. 2d 505. Appellant is called in to question the Constitutionality of the Currency Exchange Act and this Court is then presented with two propositions. First, can the Supreme Court of the State of Illinois overthrow, ignore or use the Injunction Act of the State of Illinois, Ch. 69, sec. 3 and 3-1 and can it deprive Appellant of its Constitutional rights under the 1st and 14th Amendments to the Constitution of the United States to force Appellant to cease business irrespective of the license it has from the Department of Financial Institutions of the State of Illinois to sell money orders of Travelers Express and travelers checks of American Express, pursuant to the provisions of the Exchange Act?

The challenge to Appellant's rights is even greater when it is considered that the proceedings are instituted, not by the Department of Financial Institutions of the State of Illinois, which Department determines whether defendants are acting properly, but instead the proceedings are instituted by a currency exchange that it insists it has an exclusive right to issue exchange and cash checks whereas the Sale of Exchange Act provides to the contrary.

The Injunction Act of the State of Illinois is similar to the Federal Injunction Act, which also provides that a temporary restraining order automatically terminates, ceases or dies at the end of the ten-day period. The attempt to construe the temporary restraining order of October 29, 1974, as being a permanent restraining or injunction order is obviously contrary to the Injunction Act of the State of Illinois, and Appellant is being deprived of its rights.

CONCLUSION

It is quite clear from the aforegoing, that the Supreme Court erred as follows:

1. That the court's finding, in the order of January 29th, 1975, that the order of the Appellate Court issuing a stay order, of the temporary restraining order, of the trial court was an error.

2. That the Supreme court further erred in refusing to grant a rehearing, or to clarify its order of January 29th, 1975.

3. That the Court further erred when on May 14th, 1975, it denied Appellant's motion, to recall the mandate issued April 4th, 1975, and to conform the language of the Mandate to the order of January 29th, 1975.

4. That the language of the Mandate is contrary to Chap. 69, Sec. 3 and 3-1, Ill. Rev. Stat., 1971. (Injunction Act)

The order and the Mandate violate the First and Fourteenth Amendments to the Constitution of the U.S. in that

it places Appellants in great jeopardy of a fine or jail sentence.

Appellant therefore moves that this court grant Certiorari.

Respectfully submitted,

WILLIAM HENNING RUBIN
Attorney for Defendant-Appellant.

APPENDIX

Order of January 29th, 1975

And now, on this day, this cause having been argued by counsel, and the Court, having diligently examined and inspected as well the record and proceedings aforesaid, and now being sufficiently advised of and concerning the premises, are of the opinion that the Appellate Court for the First District erred in granting the stay order.

It Is Therefore Ordered that the stay order of the Appellate Court for the First District be and the same is vacated.

And it is further considered by the Court that neither in the record and proceedings of the Circuit Court of Cook County as to the issuance of the restraining order, is there anything erroneous, vicious or defective, and in that record there is no error.

Therefore, it is considered by the Court that the issuance of the restraining order by the Circuit Court of Cook County, aforesaid, Be Affirmed In All Things And Stand In Full Force And Effect, notwithstanding the said matter and things therein assigned for error, and this cause be remanded to the Circuit Court of Cook County for a hearing on the merits.

And it is further considered by the Court that the said appellant recover of and from the said appellee costs by it in this behalf expended, to be taxed, and that it have execution therefor.

I, Clell L. Woods, Clerk of the Supreme Court of the State of Illinois and keeper of the records, files and Seal thereof, do hereby certify that the foregoing is a true

copy of the final order of the said Supreme Court in the above entitled cause of record in my office.

In Witness Whereof, I have hereunto
subscribed my name and affixed the
Seal of said Court this 4th day
of April A.D. 1975.

/s/ Clell L. Woods
Clerk,
Supreme Court of the State of Illinois.
(Seal)

Order of March 12, 1975, denying motion for rehearing, reconsideration, clarification, or in the alternative to grant a rehearing.

And now, on this day, the Court having duly considered the motion by appellee for reconsideration of the order entered January 29, 1975, and for clarification, or, in the alternative, to grant appellee a rehearing, and being now fully advised of and concerning the premises;

It Is Hereby Ordered that the motion by appellee for reconsideration of the order entered January 29, 1975, and for clarification, or, in the alternative, to grant appellee a rehearing be, and the same is, denied.

MOTION TO RECALL MANDATE AND TO CORRECT MANDATE TO CONFORM TO DECISION OF THE COURT

Now comes B. Coleman Corporation, defendant-appellee, and moves the Court that the mandate issued by this Court be recalled and that the mandate be revised to conform to the decision of this Court.

That in support of this motion, appellee states as follows:

1. That a decision was rendered by this Court that the Appellate Court erred in granting the Stay Order and the cause was remanded to the Circuit Court for a hearing on the merits.

2. That during oral argument the justices of the Supreme Court suggested that the Appellate Court erred in vacating the restraining order of the Trial Court since it was a temporary restraining order that terminated at the end of the 10-day period.

3. That appellee filed a motion to clarify or reconsider the decision of this Court in order that all the parties and the Trial Court would be further informed as to the basis for the Court's decision, but that motion was denied.

4. That the mandate issued contains the following language:

> "Therefore, it is considered by the Court that the issuance of the restraining order by the Circuit Court of Cook County, aforesaid, Reaffirmed In All Things And Stand In Full Force And Effect, notwithstanding the said matter and things therein assigned for error, and this cause be remanded to the Circuit Court of Cook County for a hearing on the merits."

5. That the failure of the mandate to conform to the order places the appellee in jeopardy.

6. That the language of the mandate is contrary to the case law that a temporary restraining order terminates at the end of the 10-day period.

Wherefore, appellee moves:

A. That the mandate issued April 5, 1975 by this Court be recalled.

B. That the language of the mandate be changed, altered or modified to conform to the order entered January 29, 1975.

C. That appellee may have such further relief as this Court deems proper.

/s/ WILLIAM HENNING RUBIN
William Henning Rubin
Attorney for Defendant-Appelle

Mandate

And now, on this day, the Court having duly considered the motion by appellee for stay of mandate, and being now fully advised of and concerning the premises;

It Is Hereby Ordered that the motion by appellee for stay of mandate be, and the same is, denied.

Order entered May 14th, 1975 denying motion to recall mandate and to modify or clarify language to conform to order of January 29th, 1975.

And now, on this day, the Court having duly considered the motion by appellee that the mandate be recalled and modified, and being now fully advised of and concerning the premises;

It Is Hereby Ordered that the motion by appellee that the mandate be recalled and modified be, and the same is, denied.

Notice of Appeal filed May 19th, 1975.

NOTICE OF APPEAL

TO: Albert Green, Esq.
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The B. Coleman Corporation, an Illinois corporation, Defendant-Appellee, hereby Appeals to the Supreme Court of the United States pursuant to 28 USC Section 1257, from the Order entered on the 29th day of January, 1975 Vacating the Stay Order of the Appellate Court for the First District and from the Motion of Appellee to recall the Mandate of the Supreme Court, to vacate the Mandate and to correct the language of the Mandate to conform to the Order of January 29, 1975 in accordance with Ill. Rev. Stat. 1971, Ch. 69, Sec. 3 and 3-1 establishing the duration of a temporary restraining order, and from the Order entered on the 14th day of May, 1975, denying Appellees Motion to recall the Mandate and to correct it to conform to the Order of January 29, 1975.

Defendant-Appellee prays that said Order be reversed and the case remanded.

Dated at Chicago, Illinois this 15th day of May, 1975.

The B. Coleman Corporation, Appellee
By: /s/ William Henning Rubin,
William Henning Rubin,
Attorney for Defendant-Appellee

William Henning Rubin
Attorney for Defendant-Appellee
188 W. Randolph St., Suite 714
Chicago Illinois 60601 263-6780

CERTIFICATE

I hereby certify that I served a copy of the aforegoing Notice of Appeal on all of the attorneys whose names appear thereon by mailing a copy thereof this 15th day of May, 1975 with sufficient postage in a properly addressed envelope thereto.

/s/ William Henning Rubin

Amended Notice of Appeal filed May 20th, 1975.

AMENDED NOTICE OF APPEAL

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B. Coleman Corporation, an Illinois corporation, Defendant-Appellee, hereby appeals to the Supreme Court of the United States, pursuant to 28 USC Section 1257, from the Order entered January 29, 1975 vacating the Stay Order of the Appellate Court for the First District, and from the Motion of appellee to recall the Mandate of the Supreme Court, to vacate the Mandate and correct the language of the Mandate to conform to the Order of January 29, 1975, in accordance with Ill. Rev. Stats. 1971,

Ch. 69, Sec. 3 and 3-1, establishing the duration of a temporary restraining order, and from the Order entered May 14, 1975 denying appellee's motion to recall the Mandate and to correct the Mandate to conform to the Order of January 29, 1975.

Defendant-appellee prays that said Order be reversed and the case remanded.

Dated at Chicago, Illinois this 17th day of May, 1975.

B. Coleman Corporation,
an Illinois corporation,
Defendant-Appellee
By /s/ William Hennings Rubin
William Hennings Rubin
Its Attorney

CERTIFICATION

I hereby certify that I served a copy of the above-Amended Notice of Appeal on all addressees by mailing a copy this 17th day of May, 1975 in properly addressed envelopes.

/s/ William Henning Rubin

William Henning Rubin
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